

HOUSE BILL No. 2217

By Committee on Financial Institutions and Pensions

2-8

1 AN ACT concerning retirement and pensions; enacting the Kansas thrift
2 savings plan act; providing terms, conditions and requirements related
3 thereto; relating to plan document, membership, benefits, contributions
4 and distributions.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) The provisions of sections 1 through 14, and
8 amendments thereto, shall be known and may be cited as the Kansas thrift
9 savings plan act, and shall be effective on and after July 1, 2022.

10 (b) This provisions of this act shall not apply to members of the
11 Kansas police and firemen's retirement system, K.S.A. 74-4951 et seq.,
12 and amendments thereto, and the retirement system for judges, K.S.A. 20-
13 2601 et seq., and amendments thereto, or to members of the Kansas public
14 employees retirement system as provided in K.S.A. 74-4901 et seq., 74-
15 49,201 et seq. and K.S.A. 74-49,301 et seq., and amendments thereto,
16 except as specifically provided in this act.

17 Sec. 2. Unless the context requires otherwise, terms that are used in
18 this act have the meanings set forth for them in K.S.A. 74-4902, and
19 amendments thereto, and the following definitions apply:

20 (a) "Act" means the Kansas thrift savings plan act, sections 1 through
21 14, and amendments thereto;

22 (b) "active plan member" means a thrift savings plan member who is
23 actively employed by a participating employer;

24 (c) "covered position" means a position with an affiliated employer
25 that is eligible for membership in the Kansas public employees retirement
26 system pursuant to the provisions of K.S.A. 74-4901 et seq., and
27 amendments thereto;

28 (d) "defined benefit plan" means the defined benefit plan for the
29 Kansas public employees retirement system, K.S.A. 74-4901 et seq., 74-
30 49,201 et seq., and 74-49,301 et seq., and amendments thereto, the Kansas
31 police and firemen's retirement system, K.S.A. 74-4951 et seq., and
32 amendments thereto, and the retirement system for judges, K.S.A. 20-2601
33 et seq., and amendments thereto;

34 (e) "first employed" means: (1) An employee who has not been an
35 employee in a covered position of any participating employer prior to July
36 1, 2022, and is employed by a participating employer in a covered position

1 on or after July 1, 2022; (2) an employee who is a former member of the
2 system who withdrew contribution accounts before July 1, 2022, and who
3 is again employed by a participating employer in a covered position on or
4 after July 1, 2022; or (3) an employee who was an inactive non-vested
5 member and who is again employed by a participating employer in a
6 covered position on or after July 1, 2022; and

7 (f) "plan" or "thrift savings plan" means the thrift savings plan
8 established by section 3, and amendments thereto.

9 Sec. 3. (a) The board shall establish a separate thrift savings plan in
10 accordance with the provisions of this act. The plan shall be established as
11 a pension plan for the exclusive benefit of members and their beneficiaries
12 and as a qualified governmental plan pursuant to sections 401(a) and
13 414(d) of the federal internal revenue code and its implementing
14 regulations. Retirement accounts shall be established for each thrift
15 savings plan member. Assets of the plan shall be held in trust. The plan is
16 established in addition to any retirement, pension, deferred compensation
17 or other benefit plan administered by the state or a political subdivision
18 thereof. The plan shall also have a Roth contribution option for members.
19 Any amounts contributed to a Roth thrift savings plan under this act shall
20 be subject to state withholding and income taxes for the year in which such
21 sum is contributed to the plan, but shall not be subject to applicable state
22 income taxes for the year in which distributions are received by the
23 member, unless the provisions of article 32 of chapter 79 of the Kansas
24 Statutes Annotated, and amendments thereto, provide otherwise.

25 (b) The board may enter into an agreement or agreements with
26 approved insurers, investment managers or other contracting parties
27 whereby benefits or investment services under the thrift savings plan
28 would be made available to participants. The board may enter into an
29 agreement with one or more qualified private firms for consolidated billing
30 services, participant enrollment services, communications services,
31 participant account recordkeeping services and other services related to the
32 administration of the thrift savings plan.

33 (c) No significant costs shall be incurred by the state as a result of the
34 administration of this act unless such costs are recovered by one or both of
35 the following means: (1) A service charge collected from all participants;
36 or (2) credit allowances or reimbursement of specified plan expenses as
37 provided under agreements with one or more qualified private firms
38 entered into pursuant to subsection (b). The amount of any such significant
39 costs incurred and to be recovered by the state shall be determined by the
40 board.

41 (d) The board is authorized to negotiate and enter into contracts with
42 qualified insurers, investment managers and other contracting parties for
43 the purposes of implementing and providing essential services for the thrift

1 savings plan, including acquisition of actuarial, investment, consulting,
2 auditing and other services necessary therefor. Contracts entered into
3 under this act shall be subject to the provisions of K.S.A. 75-3739, and
4 amendments thereto, and shall not be negotiated in accordance with the
5 provisions of K.S.A. 75-37,102, and amendments thereto, or K.S.A. 2018
6 Supp. 75-37,132, and amendments thereto.

7 Sec. 4. The legislature may from time to time prospectively change
8 the statutory provisions governing the plan, and expressly reserves the
9 right to do so. The state of Kansas shall not be responsible for any loss
10 incurred by any member under the plan established pursuant to this act.

11 Sec. 5. An eligible employee of the defined benefit plan who is first
12 employed on or after July 1, 2022, may elect, within 14 days of
13 commencement of employment in a covered position with a participating
14 employer, to become a member of the thrift savings plan upon filing with
15 the board a one-time irrevocable election to become or not become a
16 member of the thrift savings plan. An election to become a member of the
17 thrift savings plan terminates any eligibility to be a member of the defined
18 benefit plan. In the event that any employee fails to file an election to
19 become a member of thrift savings plan, it shall be presumed that such
20 employee has elected to become a member of the defined benefit plan.
21 Elections under this section shall be on a form and in a manner prescribed
22 by the board.

23 Sec. 6. (a) This section shall not be implemented until the board has
24 obtained approval from the federal internal revenue service. The board
25 may implement the remainder of this act prior to implementation of this
26 section. This section is severable from the remainder of this act and shall
27 be repealed if the federal internal revenue service refuses to grant such
28 approval or issues an adverse decision.

29 (b) Except as otherwise provided in this act, an active member of the
30 defined benefit plan on July 1, 2022, may elect to become a member of the
31 thrift savings plan by making an election within a 90-day period
32 established by the board.

33 (c) (1) Elections made pursuant to this section shall be made on a
34 form and in a manner prescribed by the board.

35 (2) A defined benefit plan member failing to make an election
36 prescribed by this section remains a member of the defined benefit plan.

37 (3) An election under this section, including the default election
38 pursuant to subsection (c)(2), is a one-time irrevocable election.

39 (4) An election to become a member of the thrift savings plan is for
40 all of such member's credited service. An election to become a thrift
41 savings plan member terminates active membership in the defined benefit
42 plan and the service of such member on and after July 1, 2022, in the thrift
43 savings plan shall not be credited for the purposes of the defined benefit

1 plan. The system shall calculate the actuarial present value of such
2 member's accrued retirement benefit for all credited service prior to July 1,
3 2022, and shall transfer a lump-sum amount equal to such actuarial present
4 value to such member's rollover account.

5 (d) A member in either the defined benefit plan or the thrift savings
6 plan who becomes inactive after an election under this section and who
7 returns to active membership remains in the plan previously elected, unless
8 such member returns to active membership with a different participating
9 employer, in which case such member shall become a member of the thrift
10 savings plan.

11 (e) A member of the defined benefit plan who is subject to a domestic
12 relations order or an execution or income-withholding order may not
13 transfer to the thrift savings plan unless the order is modified to apply
14 under the thrift savings plan.

15 (f) (1) A member of the defined benefit plan who is purchasing
16 service credit through installment payments, either made directly to the
17 board or pursuant to a payroll deduction agreement, may not transfer
18 membership to the thrift savings plan unless the member first completes
19 the contract for purchase of service credit.

20 (2) A member who files an election to transfer membership may
21 make a lump-sum payment for up to the balance of the service credit
22 remaining to be purchased prior to transferring, subject to the limitations
23 of section 415 of the federal internal revenue code. The lump-sum
24 payment, unless made by a rollover, shall be made with after-tax dollars.

25 (3) If a member who files an election to transfer membership fails to
26 complete the contract for purchase of service credit by the end of the
27 member's 90-day election window, the board shall terminate the service
28 purchase contract and credit the member with the prorated amount of
29 service credit purchased under the contract.

30 Sec. 7. The board shall accept the rollover of contributions and the
31 income on those contributions from another eligible retirement plan to the
32 member's rollover account only to the extent allowed under the federal
33 internal revenue code.

34 Sec. 8. (a) A thrift savings plan member's mandatory contribution
35 account includes the member's contributions and the income on those
36 contributions and is vested from the date that the employee becomes a
37 member of the plan.

38 (b) A thrift savings plan member's employer contribution account
39 includes the employer's contributions and the income on those
40 contributions and is vested only when the member has a total of five years
41 of participating service in the thrift savings plan.

42 (c) A thrift savings plan member's rollover account includes the
43 member's rollovers of contributions made pursuant to section 6 or 7, and

1 amendments thereto, and income on those contributions and are vested
2 from the date that the contributions are credited to the account.

3 (d) If the thrift savings plan member's employer contribution account
4 is not vested upon termination of plan membership, as provided in this
5 section, the employer contributions and income are forfeited as provided in
6 section 9, and amendments thereto.

7 Sec. 9. (a) An active thrift savings plan member shall contribute 3%
8 of compensation to the thrift savings plan. These contributions shall be
9 picked up by the employer via a salary reduction as provided in section
10 414(h)(2) of the federal internal revenue code.

11 (b) An active plan member may make additional voluntary
12 contributions to the thrift savings plan to the extent permitted by the
13 federal internal revenue code.

14 (c) An active plan member's employer shall contribute the following:

15 (1) Four percent of compensation to the active plan member's
16 employer contribution account; and

17 (2) an additional 0.5% of compensation to the active plan member's
18 employer contribution account if such member contributes 4% of
19 compensation to the plan or an additional 1% of compensation if such
20 member contributes 5% or more of compensation to the plan.

21 (d) Forfeitures of employer contributions and investment income on
22 the employer contributions may not be used to increase a plan member's
23 retirement account. The board shall allocate the forfeitures under this
24 section to meet the plan's administrative expenses, including startup
25 expenses.

26 Sec. 10. (a) (1) The board shall require in any agreement or
27 agreements with entities pursuant to section 3, and amendments thereto,
28 that at least the following investment alternatives under the thrift savings
29 plan are offered to members, including:

30 (A) A government securities investment fund;

31 (B) a fixed income index investment fund;

32 (C) a common stock index investment fund;

33 (D) a small capitalization stock index investment fund;

34 (E) an international stock index investment fund; and

35 (F) hybrid funds mixing and matching various investment funds,
36 tailored to projected retirement years.

37 (2) (A) The board shall select an index that is a commonly recognized
38 index comprised of common stock the aggregate market value of which is
39 a reasonably complete representation of the United States equity markets.

40 (B) The common stock index investment fund shall be invested in a
41 portfolio designed to replicate the performance of the index selected under
42 paragraph (2)(A). The portfolio shall be designed such that, to the extent
43 practicable, the percentage of the large capitalization stock index

1 investment fund that is invested in each stock is the same as the percentage
2 determined by dividing the aggregate market value of all shares of that
3 stock by the aggregate market value of all shares of all stocks included in
4 such index.

5 (3) (A) The board shall select an index that is a commonly recognized
6 index comprised of common stock the aggregate market value of which
7 represents the United States equity markets excluding the common stocks
8 included in the common stock index investment fund.

9 (B) The small capitalization stock index investment fund shall be
10 invested in a portfolio designed to replicate the performance of the index
11 in paragraph (3)(A). The portfolio shall be designed such that, to the extent
12 practicable, the percentage of the small capitalization stock index
13 investment fund that is invested in each stock is the same as the percentage
14 determined by dividing the aggregate market value of all shares of that
15 stock by the aggregate market value of all shares of all stocks included in
16 such index.

17 (4) (A) The board shall select an index that is a commonly recognized
18 index comprised of stock the aggregate market value of which is a
19 reasonably complete representation of the international equity markets
20 excluding the United States equity markets.

21 (B) The international stock index investment fund shall be invested in
22 a portfolio designed to replicate the performance of the index in paragraph
23 (4)(A). The portfolio shall be designed such that, to the extent practicable,
24 the percentage of the international stock index investment fund that is
25 invested in each stock is the same percentage determined by dividing the
26 aggregate market value of all shares of that stock by the aggregate market
27 value of all shares of all stocks included in such index.

28 (b) The legislature may from time to time review the suitability and
29 management of investment alternatives established by this section and may
30 change the alternatives to be offered, and expressly reserves the right to do
31 so. The board shall notify affected plan members of potential changes
32 before any changes become effective.

33 (c) The board shall establish a default investment option for any plan
34 member who does not have an effective investment direction. The board
35 may utilize the government securities investment fund established
36 pursuant to this section as the default investment fund.

37 (d) Assets within each member's account shall be invested as directed
38 by the member within the investment alternatives established by the board.

39 (e) A plan member may elect the investment funds and alternatives
40 referred to in this section into which the sums in the member's accounts are
41 to be invested or reinvested. The board shall develop and make available
42 to all plan members an electronic means for investment allocation
43 elections. Elections to allocate existing account balances among the

1 various investment alternatives referred to in this section shall be
2 permitted on a daily basis. Elections to allocate future contributions among
3 the various investment alternatives referred to in this section shall be
4 permitted on a monthly basis. All investment elections shall be made in
5 1% increments. The sum of the percentages elected for all investment
6 alternatives shall equal 100%.

7 Sec. 11. Any time after termination of service, a plan member or the
8 plan member's beneficiary may terminate plan membership by filing a
9 written application with the board and removing the plan member's vested
10 account balance from the plan through any combination of the following
11 payout options, each of which is subject to the provisions of the plan
12 document and the federal internal revenue code and the applicable
13 regulations of the federal internal revenue service:

- 14 (a) A direct rollover to an eligible retirement plan;
- 15 (b) a regular rollover to an eligible retirement plan;
- 16 (c) a lump-sum distribution of the plan member's vested account
17 balance; or
- 18 (d) an optional form of distribution offered by the board under section
19 12, and amendments thereto.

20 Sec. 12. (a) Subject to the provisions of the plan document, a plan
21 member, after termination of service, may leave the plan member's vested
22 account balance in the plan, and the plan member is eligible for a
23 distribution as provided in this section.

24 (b) After termination of service and upon filing a written application
25 with the board, a plan member may select any distribution option provided
26 by the plan document.

27 (c) A plan member who is less than 70½ years of age who returns to
28 service may not continue to receive a distribution under this section while
29 actively employed in a covered position.

30 (d) The plan document shall provide that distributions shall comply
31 with the minimum distribution requirements established in the federal
32 internal revenue code and applicable under K.S.A. 74-49,123, and
33 amendments thereto.

34 (e) The plan document may specify minimum account balances for
35 purposes of allowing benefit payment options and rollovers in accordance
36 with the federal internal revenue code.

37 Sec. 13. A plan member's beneficiary shall be determined as provided
38 in the defined benefit plan regulations. Upon filing a written application
39 with the board after the death of a plan member, the plan member's
40 beneficiary is entitled to the plan member's vested account balance.

41 Sec. 14. Before termination of service, a plan member may not
42 receive a refund of any portion of the plan member's vested account
43 balance.

1 Sec. 15. This act shall take effect and be in force from and after its
2 publication in the statute book.